

(3) An employee who transfers to the government of the District of Columbia or the U.S. Postal Service;

(4) A nonappropriated fund employee of the Department of Defense or the Coast Guard who moves without a break in service of more than 3 days to an appropriated fund position within the Department of Defense or the Coast Guard, respectively, under 5 U.S.C. 6308(b); or

(5) An employee who is concurrently employed in more than one part-time position and who separates from one of the part-time positions. Instead, the former employing agency must transfer the employee's accumulated and accrued annual leave to the current agency (if the part-time positions are in different agencies) or credit the employee's annual leave account in the current position (if the part-time positions are in the same agency).

(6) An employee who elects to retain his or her leave benefits upon accepting a Presidential appointment, as permitted by 5 U.S.C. 3392(c).

(i) An agency must establish a policy for determining when an employee in a continuing employment program with a mixed tour of duty will receive a lump-sum payment for annual leave. The agency may choose to pay an employee a lump-sum payment when he or she is assigned intermittent duty or hold the employee's annual leave in abeyance during intermittent duty and recredit it when the employee returns without a break in service to full-time or part-time employment. If the agency decides to hold the employee's annual leave in abeyance, it must also hold in abeyance the credit for any fractional pay period earned and recredit the annual leave on a pro rata basis, as provided in § 630.204 of this chapter, when the employee returns to full-time or part-time employment. In developing its policy, each agency must consider the likelihood that the employee will return to work, as well as the agency's mission requirements and staffing needs. The agency's policy must ensure that employees are treated in a fair and equitable manner.

**§ 550.1204 Projecting the lump-sum leave period.**

(a) A lump-sum payment must equal the pay an employee would have received had he or she remained in the Federal service until the expiration of the accumulated and accrued annual leave to the employee's credit. The agency must project the lump-sum period leave beginning on the first workday (counting any holiday) occurring after the date the employee becomes eligible for a lump-sum payment under § 550.1203 and counting all subsequent workdays and holidays until the expiration of the period of annual leave. The period of leave used for calculating the lump-sum payment must not be extended by any holidays under 5 U.S.C. 6103 (or applicable Executive or administrative order) which occur immediately after the date the employee becomes eligible for a lump-sum payment under § 550.1203; annual leave donated to an employee under the leave transfer or leave bank programs under subparts I and J of part 630 of this chapter; compensatory time off earned under 5 U.S.C. 5543 and § 550.114(d) or § 551.531(d) of this chapter; or credit hours accumulated under an alternative work schedule established under 5 U.S.C. 6126.

(b) For employees whose annual leave was held in abeyance immediately prior to becoming eligible for a lump-sum payment, the agency must project the lump-sum payment beginning on the first workday occurring immediately after the date the employee becomes eligible for a lump-sum payment under § 550.1203, consistent with paragraph (a) of this section.

**§ 550.1205 Calculating a lump-sum payment.**

(a) An agency must compute a lump-sum payment based on the types of pay listed in paragraph (b) of this section, as in effect at the time the affected employee becomes eligible for a lump-sum payment under § 550.1203 and any adjustments in pay included in paragraphs (b)(2), (3), and (4) of this section. The agency must calculate a lump-sum payment by multiplying the number of hours of accumulated and accrued annual leave by the applicable hourly rate of pay, including other applicable

types of pay listed in paragraph (b) of this section, or by using a mathematically equivalent method, such as multiplying weeks of annual leave by the applicable weekly rate of pay. If the agency calculates a lump-sum payment using weekly rates, the number of weeks of annual leave must be rounded to the fourth decimal place (e.g., 0.4444). The agency must convert an annual rate of pay to an hourly rate of pay by dividing the annual rate of pay by 2,087 (or 2,756 for firefighters, if applicable) and rounding it to the nearest cent, counting one-half cent and over as the next higher cent.

(b) The agency must compute a lump-sum payment using the following types of pay and pay adjustments, as applicable:

(1) The greatest of the following rates of pay:

(i) An employee's rate of basic pay, including any applicable special salary rate established under 5 U.S.C. 5305 or similar provision of law or a special rate for law enforcement officers under section 403 of the Federal Employees Pay Comparability Act of 1990 (FEPCA), Pub. L. 101-509, 104 Stat. 1465, or a retained rate of pay under subpart B of part 536 of this chapter;

(ii) A locality rate of pay under subpart F of part 531 of this chapter or similar provision or law, where applicable;

(iii) A special law enforcement adjusted rate of pay under subpart C of part 531 of this chapter, where applicable, including a rate continued under § 531.307 of this chapter; or

(iv) A continued rate of pay under subpart G of part 531 of this chapter.

(2) Any statutory adjustments in pay or any general system-wide increases in pay, such as adjustments under sections 5303, 5304, 5305, 5318, 5362, 5363, 5372, 5372a, 5376, 5382, or 5392 of title 5, United States Code, that become effective during the lump-sum leave period. The agency must adjust the lump-sum payment to reflect the increased rate on and after the effective date of the pay adjustment.

(3) In the case of a prevailing rate employee, the agency must include in the lump-sum payment the scheduled rate of pay under 5 U.S.C. 5343, 5348, or 5349 and any applicable adjustments in

rates that are determined under 5 U.S.C. 5343, 5348, or 5349 that become effective during the lump-sum leave period. The agency must adjust the lump-sum payment to reflect the increased prevailing rate on and after the effective date of the rate adjustment.

(4) A within-grade increase under 5 U.S.C. 5335 or 5343(e)(2) if the employee has met the requirements of § 531.404 or § 532.417 of this chapter prior to the date the employee becomes eligible for a lump-sum payment under § 550.1203.

(5) The following types of premium pay (to the extent such premium pay was actually payable to the employee):

(i) Night differential under 5 U.S.C. 5343(f) for nonovertime hours at the percentage rate received by a prevailing rate employee for the last full workweek immediately prior to separation, death, or transfer;

(ii) Premium pay under 5 U.S.C. 5545(c) or 5545a if the employee was receiving premium pay for the pay period immediately prior to the date the employee became eligible for a lump-sum payment under § 550.1203. The agency must base the lump-sum payment on the percentage rate received by the employee for the pay period immediately prior to the date the employee became eligible for a lump-sum payment under § 550.1203. In cases where the amount of premium pay actually payable in the final pay period was limited by a statutory cap, the agency must base the lump-sum payment on a reduced percentage rate that reflects the actual amount of premium pay the employee received in that pay period; and

(iii) Overtime pay under 5 U.S.C. 5545b and § 550.1304 of this chapter for overtime hours in an employee's uncommon tour of duty (as defined in § 630.201 of this chapter), established in accordance with § 630.210 of this chapter. The uncommon tour of duty must be applicable to the employee for the pay period immediately prior to the date the employee became eligible for a lump-sum payment under § 550.1203. The agency must calculate overtime pay using the same methodology it used to calculate the employee's entitlement to overtime pay as provided in § 550.1304 of this chapter in the pay period immediately prior to the date the

employee became eligible for a lump-sum payment under § 550.1203. An agency may not change an employee's work schedule for the sole purpose of avoiding or providing payment of premium pay under § 550.1205(b)(5)(i)–(iv) in a lump-sum payment.

(6) Overtime pay under the Fair Labor Standards Act of 1938, as amended (FLSA), for overtime work that is regularly scheduled during an employee's established uncommon tour of duty, as defined in § 630.201(b)(1) of this chapter and established under § 630.210(a) of this chapter, for which the employee receives standby duty pay under 5 U.S.C. 5545(c)(1). The agency must include FLSA overtime pay in a lump-sum payment if an uncommon tour of duty was applicable to the employee for the pay period immediately prior to the date the employee became eligible for a lump-sum payment under § 550.1203. The agency must calculate FLSA overtime pay using the same methodology it used to calculate the employee's entitlement to FLSA overtime pay for the pay period immediately prior to the date the employee became eligible for a lump-sum payment under § 550.1203. An agency may not change an employee's work schedule for the sole purpose of avoiding or providing payment of FLSA overtime pay in a lump-sum payment.

(7) A supervisory differential under 5 U.S.C. 5755 based on the percentage rate (or dollar amount) received by the employee for the pay period immediately prior to the date the employee became eligible for a lump-sum payment under § 550.1203.

(8) A cost-of-living allowance and/or post differential in a nonforeign area under 5 U.S.C. 5941 if the employee's official duty station is in the nonforeign area when he or she becomes eligible for a lump-sum payment under § 550.1203.

(9) A post allowance in a foreign area under 5 U.S.C. 5924(1) and the *Standardized Regulations* (Government Civilians, Foreign Areas) if the employee's official duty station is in the foreign area when he or she becomes eligible for a lump-sum payment under § 550.1203.

(c) The head of an agency must prescribe regulations or standards for the inclusion of any other kinds of pay au-

thorized in statutes other than title 5, United States Code, in a lump-sum payment. Such regulations or standards must be consistent with 5 U.S.C. 5551, 5552, 6306, and other applicable provisions of law.

(d) A lump-sum payment may not include any other pay not specifically listed in paragraph (b) of this section, except as provided in paragraph (c) of this section.

(e) An employee may not earn leave for the period covered by a lump-sum payment.

(f) A lump-sum payment is not subject to deductions for retirement under the Civil Service Retirement System or the Federal Employees' Retirement System established by chapters 83 and 84 of title 5, United States Code, respectively; health benefits under the Federal Employees Health Benefits program established by chapter 89 of title 5, United States Code; life insurance under the Federal Employees' Group Life Insurance program established by chapter 87 of title 5, United States Code; and savings under the Thrift Savings Plan established by subchapter III of chapter 84 of title 5, United States Code.

(g) For a reemployed annuitant who becomes eligible for a lump-sum payment under § 550.1203, the agency must compute the lump-sum payment using the annuitant's pay before any reductions required under § 831.802 of this chapter.

(h) A lump-sum payment is subject to garnishment under parts 581 and 582 of this chapter and to administrative offset (for recovery of debts to the Federal Government) under 31 U.S.C. chapter 37.

**§ 550.1206 Refunding a lump-sum payment.**

(a) When an employee who received a lump-sum payment for accumulated and accrued annual leave under 5 U.S.C. 5551 is reemployed in the Federal service prior to the end of the period covered by the lump-sum payment, the employee must refund to the employing agency an amount equal to the pay included in the lump-sum payment under § 550.1205(b) that covers the period between the date of reemployment and the expiration of the lump-